

December 14, 2009

DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: Glen W. Bowers

Date of Filing: November 16, 2009

Case Number: TFA-0338

On November 16, 2009, Glen W. Bowers filed an Appeal from a determination issued to him on October 6, 2009, by the Department of Energy's Savannah River Operations Office (SR). That determination was issued in response to a request for information that Mr. Bowers submitted under the Freedom of Information Act, 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. Mr. Bowers asks that SR conduct an additional search for documents responsive to his request.

I. Background

Mr. Bowers filed a request for information in which he sought the employment and medical records, radiation exposure records, special awards, photographs, news letters, and all other information pertaining to his father, John Wyley Bowers. In his request, Mr. Bowers indicated that his father worked, *inter alia*, with the Department of Defense Union Contractors and the Atomic Energy Commission. Mr. Bowers submitted his request to DOE's Office of Information Resources (DOE/HQ). That office transferred Mr. Bowers' FOIA request to all relevant offices for action and a direct response to Mr. Bowers. Upon receiving Mr. Bowers' request, SR conducted a search, but found no responsive documents. On November 16, 2009, Mr. Bowers filed the present Appeal with the Office of Hearings and Appeals (OHA). In his Appeal, Mr. Bowers challenges the adequacy of the search conducted by SR. *See* Appeal Letter. He asserts that responsive documents may be found in a number of additional locations and asks OHA to direct SR to conduct a new search for responsive documents.

II. Analysis

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Doris M. Harthun*, Case No. TFA-0015 (2003). ^{*/} The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he

^{*/} All OHA FOIA decisions issued after November 19, 1996, may be accessed at
(continued...)

standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought material.” *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord, Weisberg v. Department of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). The fact that the results of a search do not meet the requester’s expectations does not necessarily mean that the search was inadequate.

In reviewing the present Appeal, we contacted officials in SR to ascertain the extent of the search that had been performed and to determine whether any other documents responsive to Mr. Bowers’ request might reasonably be located. Upon receiving Mr. Bowers’ request for information, SR conducted a search of their dosimetry records in the Radiation Exposure Department and medical records in the Electronic Data Warehouse Storage, which is a system that houses all records of former and current employees. SR indicated that it also searched archived microfiche, disposal records and personnel security records. SR conducted both manual and computer searches using several search aids including Mr. Bowers’ father’s name and social security number, and was unable to locate responsive material. *See* E-mail from Pauline Conner, SR, to Kimberly Jenkins-Chapman, OHA (November 23, 2009). Given the facts presented to us, we find that SR conducted an adequate search which was reasonably calculated to discover documents responsive to Mr. Bowers’ request. Accordingly, Mr. Bowers’ Appeal should therefore be denied.

It Is Therefore Ordered That:

- (1) The Appeal filed by Glen W. Bowers, OHA Case No. TFA-0338, on November 16, 2009, is hereby denied.
- (2) This is a final Order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos
Director
Office of Hearings and Appeals

Date: December 14, 2009